

CASE NO. 23-1078

**In the United States Court of Appeals
for the Fourth Circuit**

B.P.J., by her next friend and mother; HEATHER JACKSON
Plaintiffs-Appellants

v.

WEST VIRGINIA STATE BOARD OF EDUCATION; HARRISON COUNTY
BOARD OF EDUCATION; WEST VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION; W. CLAYTON BURCH, in his official capacity as
State Superintendent; DORA STUTLER, in her official capacity as Harrison
County Superintendent
Defendants-Appellees

and

THE STATE OF WEST VIRGINIA; LAINEY ARMISTEAD
Intervenors-Appellees

On Appeal from the United States District Court for the Southern District of West
Virginia at Charleston, Honorable Joseph R. Goodwin, District Judge
Civil Action No. 2:21-cv-00316

**MOTION FOR LEAVE TO FILE BRIEF FOR *AMICUS CURIAE*
INSTITUTE FOR FAITH & FAMILY IN SUPPORT OF DEFENDANTS-
APPELLEES AND AFFIRMANCE**

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**DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER
INTERESTS FRAP RULE 26.1 and LOCAL RULE 26.1**

Amicus curiae, Institute for Faith & Family, a nonprofit corporation, makes the following disclosures:

1. *Amicus* is not a publicly held corporation or other public entity.
2. *Amicus* does not have a parent corporation.
3. No publicly held corporation or other publicly held entity owns 10% or more of the stock of *amicus*, because it is a nonprofit corporation and does not issue stock.
4. No publicly held corporation or other publicly held entity has a direct financial interest in the outcome of the litigation.

DATED: May 3, 2023

/s/Deborah J. Dewart

Deborah J. Dewart

Counsel for *Amicus Curiae*

Institute for Faith & Family

**MOTION FOR LEAVE TO FILE BRIEF OF
INSTITUTE FOR FAITH AND FAMILY AS AMICUS CURIAE
SUPPORTING DEFENDANTS-APPELLEES AND AFFIRMANCE**

The Institute for Faith and Family respectfully files this Motion for Leave to File Brief as *Amicus Curiae*, supporting Defendants-Appellees in this matter.

Institute for Faith and Family is a North Carolina nonprofit corporation established to preserve and promote faith, family, and freedom through public policies that protect constitutional liberties, including the right to live and work according to conscience and faith. See <https://iffnc.com>.

The outcome of this Fourth Circuit case is particularly important in North Carolina, which is also in the Fourth Circuit. The North Carolina House and Senate have both passed the *Fairness in Women's Sports Act* (HB 574 and SB 63). The bills are different versions; the Senate version does not cover colleges and universities. The legislation would protect females from being forced to play against biological males on sports teams, which can leave females with injuries and cheats them out of equal opportunities. Just recently, a female high school volleyball player in Cherokee County, NC suffered severe head and neck injuries, resulting in long-term concussion symptoms, when a biological male spiked a ball in her face during a return play.¹

¹ <https://www.edfirstncc.org/post/female-hs-volleyball-player-seriously-injured-by-alleged-trans-competitor-in-north-carolina> (last visited April 17, 2023).

The Institute for Faith and Family recently filed a brief as *amicus curiae* for a similar case pending in the Second Circuit Court of Appeals, *Soule, et al. v. CT Assn. of Schools, Inc., et al.*, Case No. 21-1365.

Counsel for proposed amicus curiae has contacted counsel for all parties of record, and each one has consented to the filing of this amicus brief except for the West Virginia Secondary School Activities Commission (WVSSAC), which takes no position on amicus briefs but will not oppose either the filing of the proposed brief or this motion seeking leave to file.

Dated: May 3, 2023

/s/Deborah J. Dewart

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CERTIFICATE OF COMPLIANCE WITH FED. R. APP. P. 32(a)

1. This motion complies with the type-volume limitations of Fed. R. App. P. 27 because this motion contains **308** words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii), as calculated by the word-counting function of Microsoft Office 2010.
2. This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally-spaced typeface using Microsoft Office Word in 14-point Times New Roman.

Dated: May 3, 2023

/s/Deborah J. Dewart

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CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2023, I electronically filed the foregoing Motion for Leave to File Brief of the Institute for Faith and Family as *Amicus Curiae* in Support of Defendants-Appellees and Affirmance with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: May 3, 2023

/s/Deborah J. Dewart

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